
Judiciary Committee

HB 1839

Title: An act relating to the criminal background check and other requirements applicable to the purchase and transfer of firearms.

Brief Description: Concerning criminal background checks and other requirements applicable to the purchase and transfer of firearms.

Sponsors: Representatives Goodman, Blake, Shea, Takko, Jinkins, Pollet and Tharinger.

<p style="text-align: center;">Brief Summary of Bill</p> <ul style="list-style-type: none">• Revises background check and other requirements applicable to the transfer of a pistol by a dealer.

Hearing Date: 2/20/13

Staff: Edie Adams (786-7180).

Background:

Pistol Purchases.

Both state and federal law regulate the possession, purchase, and transfer of pistols. Firearms dealers must be licensed under both federal and state law and must comply with state and federal law when making firearms transfers.

Federal Law.

Under the federal Brady Act, a dealer must, with few exceptions, conduct a background check to determine whether the purchaser is prohibited by state or federal law from possessing a firearm. This background check is conducted through the National Instant Criminal Background Check System (NICS). The NICS check includes a check of three major databases: the National Crime Information Center; the Interstate Identification Index, and the NICS Index. If the purchaser is not a United States citizen, the NICS check will include a check of the Bureau of Immigration and Customs Enforcement records.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The dealer may initiate the NICS check either by contacting the FBI or a state "point of contact" agency. In Washington, local sheriffs and police departments serve as "partial points of contact" for licensed dealers in conducting the NICS check. This means that a licensed firearm dealer will contact the local sheriff or police department to conduct the NICS check and the state background check for all pistol transfers where the purchaser does not have a valid concealed pistol license (CPL). However, if the purchaser has a valid CPL, local law enforcement will conduct a state background check, and the dealer will conduct a NICS check, if required.

State Law.

Under state law, a dealer may not deliver a pistol to a prospective purchaser until one of the following occurs:

- The purchaser produces a valid CPL;
- The dealer is notified by the chief of police or sheriff that the purchaser is eligible to possess the firearm and the application is approved; or
- Five business days have elapsed since the application was received by the law enforcement agency (or up to 60 days if the person does not have a Washington driver's license or has not resided in the state for the previous 90 days).

A dealer must deliver the pistol to the purchaser following the specified time periods unless the law enforcement agency has notified the dealer of an investigative hold.

The statute's provisions governing required background checks do not reflect the practice used by dealers and local law enforcement agencies serving as partial points of contact. One provision requires local law enforcement agencies, in determining whether a person is eligible to possess a firearm, to conduct a background check with the National Crime Information Center, Washington State Patrol database, Department of Social and Health Services (DSHS) database, or other agencies or resources as appropriate. Another provision of the statute requires dealers to use the NICS system to conduct background checks of applicants to purchase firearms, and local law enforcement to continue to check the DSHS database or other agencies or resources as appropriate.

2011 CPL Legislation.

Federal law generally requires dealers to conduct background checks of all purchasers of firearms. There is an exception to this requirement where the purchaser possesses a state permit qualified by the Bureau of Alcohol, Tobacco, Firearms, and Explosives (BATFE) as an alternative to the point-of-transfer background check ("NICS alternative"). Prior to 2011, a Washington CPL did not meet the federal requirements necessary to qualify as a NICS alternative.

Legislation enacted in 2011 (SHB 1923) altered the requirements for the issuance of a concealed pistol license. This legislation took effect on July 22, 2011, and as a result of these changes, the BATFE has determined that a Washington CPL issued on or after that date is a qualifying state permit, or "NICS alternative." This means that dealers are no longer required under federal law to conduct a background check of a purchaser who possesses a valid Washington CPL issued on or after July 22, 2011. However, state firearms laws continue to require a dealer to conduct a background check of all persons who purchase a pistol from a licensed firearms dealer.

Summary of Bill:

Background check and other requirements relating to the purchase and transfer of a pistol by a dealer are revised.

A background check is no longer required for a pistol purchase if the purchaser produces a valid concealed pistol license issued on or after July 22, 2011.

A dealer must continue to conduct a NICS check of any purchaser who produces a valid CPL issued before July 22, 2011, but the requirement that local law enforcement conduct a state background check in this circumstance is eliminated.

For purchasers who do not produce a valid CPL, the local law enforcement agency must conduct a NICS check and a state background check.

The requirement that a dealer must transfer a pistol to a purchaser after the specified time period (5 days or 60 days), unless there are grounds for an investigative hold, applies only with respect to purchasers who are subject to the five-day or 60-day time period.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.